GENERAL ADMINISTRATION DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 25th May 2006

NOTIFICATION

MAHARASHTRA GOVERNMENT SERVANTS REGULATION OF TRANSFERS AND PREVENTION OF DELAY IN DISCHARGE OF OFFICIAL DUTIES ACT, 2005.

No. SRV. 2004/C. R.-15/2004/12.—In exercise of the powers conferred by sub-section (*2*) of section 1 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Mah. XXI of 2006), the Government of Maharashtra hereby appoints the 1st day of July 2006 to be the date on which the said Act shall come into force.

By order and in the name of the Governor of Maharashtra,

NAVIN KUMAR,
Additional Chief Secretary to Government.

शासकीय मध्यवर्ती मुद्रणालय, मुंबई

No. SRV. 2004/C.R.-15/2004/12
GENERAL ADMINISTRATION DEPARTMENT,
Mantralaya, Mumbai 400 032,
Dated the 25th May 2006.

Copy forwarded with a copy of Maharashtra Act of XXI of 2006 for information and necessary action—

The Secretary to the Governor, Raj Bhavan, Malbar Hill, Mumbai,
The Principal Secretary to the Chief Minister,
The Secretary to the Deputy Chief Minister,
The Private Secretary to all Ministers/State Ministers,
The Chief Secretary,
All Additional Chief Secretaries/Principal Secretaries/Secretaries of Mantralaya Departments,
All Mantralaya Departments,
The Registrar, High Court (Original Side), Mumbai,
The Registrar, High Court (Appellate Side), Mumbai,
The Registrar, Office of the Loka Ayukta and Upa-Loka Ayukta, Mumbai,
The Secretary, Maharashtra Public Service Commission, Mumbai,
The Principal Secretary, Maharashtra Legislature Assembly, Mumbai,
The Secretary, Maharashtra Legislature Council, Mumbai,
The Secretary, Election Commission Office, New Administrative Bldg., Mumbai,
Accountant General, Maharashtra-1 (Account and Examination), Maharashtra, Mumbai,
Accountant General, Maharashtra-1 (Account and Treasury), Maharashtra, Mumbai,
Accountant General, Maharashtra-2 (Account and Examination), Maharashtra, Nagpur,
Accountant General, Maharashtra-2 (Account and Treasury), Maharashtra, Nagpur,
The State Chief Information Commissioner, New Administrative Bldg., Mumbai,
The Registrar, State Human Rights Commission, Mumbai 400 001,
Director General of Information and Public Relations, Mumbai,
(2 copies for publicity),
Pay and Accounts Officer, Mumbai,
Resident Audit Officer, Mumbai,
All Divisional Commissioners,
All Collectors,
All Chief Executive Officers of Zilla Parishads,
All District Treasury Officers,
All Heads of Departments and Heads of Offices under the All Departments of Mantralaya,
All Desks of General Administration Department,
General Administration Dept/Desk 39 (For publishing on website),

Select File.

B. B. NARAYANKAR,
Under Secretary to Government.

असा. क्र. ५०

रजिस्टर्ड नं. एमएच/एमआर/साऊथ २२९/२००६-०८

महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

शुक्रवार, मे १२, २००६/वैशाख २२, शके १९२८

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद)

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Mah. Act No. XXI of 2006), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXI OF 2006.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 12th May 2006).

An Act to provide for regulation of transfers of Government Servants and prevention of delay in discharge of official duties.

WHEREAS, both Houses of the State Legislature were not in session ;

AND WHEREAS, the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2003, on the 25th August 2003 ; Mah. Ord. IX of 2003.

[किंमत : रुपये ९.००]

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature with certain amendments; it is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, commencement and application.

1. *(1)* This Act may be called the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

(3) It shall apply to all Government servants in the State services including the All India Service Officers of the Maharashtra Cadre :

Provided that, Chapter II shall not apply to the employees appointed on non-transferable posts in isolated cadres and to the employees under the administrative control of the Judiciary; and Chapter III shall not apply to the All India Service Officers of the Maharashtra Cadre.

Definition.

2. In this Act, unless the context otherwise requires,–

(a) " Citizens Charter " means a list of facilities or services rendered by the office or Department, together with the time limit for providing such facility or services to the general public;

(b) " Competent authority " means the appointing authority of the Government servant and shall include the transferring authority specified in section 6;

(c) " Department " or " Administrative Department " means the Department of the Government of Maharashtra as specified in the First Schedule to the Maharashtra Government Rules of Business;

(d) " Government " or " State Government " means the Government of Maharashtra;

(e) " Group A, B, C and D posts " means the posts under the Government classified as Group A, B, C and D posts by Government order, from time to time;

(f) " Government servant " means a Government servant or employee as defined in rule 2 *(b)* of the Maharashtra Civil Services (Conduct) Rules, 1979, and shall include the All India Service Officers and employees (other than the judicial officers) under the administrative control of the Judiciary;

(g) " post " means the job or seat of duty to which a Government servant is assigned or posted;

(h) " secretariat services " means the State services belonging to the Mantralaya Departments;

(i) " Transfer " means posting of a Government servant from one post, office or Department to another post, office or Department ;

(j) " Transferring authority " means the authorities mentioned in section 6.

CHAPTER II

TENURES OF POSTING AND TRANSFER AND TRANSFERRING AUTHORITY

3. (1) For All India Service Officers and all Groups A, B and C State Government Servants or employees, the normal tenure in a post shall be three years : Tenure of posting.

Provided that, when such employee is from the non-secretariat services, in Group C, such employee shall be transferred from the post held, on his completion of two full tenures at that office or department, to another office or Department :

Provided further that, when such employee belongs to secretariat services, such employee shall not be continued in the same post for more than three years and shall not be continued in the same Department for more than two consecutive tenures.

(2) Employees in Group D shall normally not be subjected to fixed tenure. They shall not be transferred out from the station where they are serving except on request when a clear vacancy exists at the station where posting is sought, or on mutual transfer, or when a substantiated complaint of serious nature is received against them.

4. (1) No Government servant shall ordinarily be transferred unless he has completed his tenure of posting as provided in section 3. Tenure of transfer.

(2) The competent authority shall prepare every year in the month of January, a list of Government servants due for transfer, in the month of April and May in the year.

(3) Transfer list prepared by the respective competent authority under sub-section (2) for Group A Officers specified in entries (a) and (b) of the table under section 6 shall be finalised by the Chief Minister or the concerned Minister, as the case may be, in consultation with the Chief Secretary or concerned Secretary of the Department, as the case may be :

Provided that, any dispute in the matter of such transfers shall be decided by the Chief Minister in consultation with the Chief Secretary.

(4) The transfers of Government servants shall ordinarily be made only once in a year in the month of April or May :

Provided that, transfer may be made any time in the year in the circumstances as specified below, namely :—

(i) to the newly created post or to the posts which become vacant due to retirement, promotion, resignation, reversion, reinstatement, consequential vacancy on account of transfer or on return from leave ;

(ii) where the competent authority is satisfied that the transfer is essential due to exceptional circumstances or special reasons, after recording the same in writing and with the prior approval of the next higher authority.

(5) Notwithstanding anything contained in section 3 or this section, the competent authority may, in special cases, after recording reasons in writing and with the prior permission of the immediately preceding Competent Transferring Authority mentioned in the table of section 6, transfer a Government servant before completion of his tenure of post.

Extension of tenure.

5. *(1)* The tenure of posting of a Government servant or employee laid down in section 3 may be extended in exceptional cases as specified below, namely :—

(a) the employee due for transfer after completion of tenure at a station of posting or post has less than one year for retirement ;

(b) the employee possesses special technical qualifications or experience for the particular job and a suitable replacement is not immediately available ; and

(c) the employee is working on a project that is in the last stage of completion, and his withdrawal will seriously jeopardise its timely completion.

(2) Notwithstanding anything contained in section 3 or any other provisions of this Act, to ensure that the Government work is not adversely affected on account of large scale transfers of Government servants from one single Department or office, not more than thirty per cent. of the employees shall be transferred from any office or Department at a time, in a year.

Transferring Authority.

6. The Government servants specified in column *(1)* of the table hereunder may be transferred by the Transferring Authority specified against such Government servants in column *(2)* of the table.

TABLE

Groups of Government servants (1)	Competent Transferring Authority (2)
(a) Officers of All India Services, all Officers of State Services in Group " A " having pay-scale of Rs. 10,650-15,850 and above.	Chief Minister
(b) All Officers of State Services in Group " A " having pay-scales less than Rs. 10,650–15,850 and all Officers in Group " B ".	Minister-in-charge in consultation with Secretaries of the concerned Departments.
(c) All employees in Group " C ".	Heads of Departments.
(d) All employees in Group " D ".	Regional Heads of Departments :

Provided that, in respect of officers in entry (b) in the table working at the Divisional or District level, the Divisional Head shall be competent to transfer such officers within the Division ; and the District Head shall be competent to transfer such officers within the District :

Provided further that, the Competent Transferring Authority specified in the table may, by general or special order, delegate its powers under this section to any of its subordinate authority.

7. Every Administrative Department of Mantralaya shall for the purposes of this Act prepare and publish a list of the Heads of Departments and Regional Heads of Departments within their jurisdiction and notify the authorities competent to make transfers within their jurisdiction for the purposes of this Act. Publication of list of competent authority.

CHAPTER III

PREVENTION OF DELAY IN DISCHARGE OF OFFICIAL DUTIES

8. (1) Every office or Department shall prepare and publish Citizens Charter within a period of six months from the date of commencement of this Act. Citizens Charter.

(2) If no final decision is taken within the period specified in the Citizens Charter by the concerned authorities, the responsibility for inaction shall be fixed on them and an action mentioned in the relevant Act, rules or regulations shall be taken against them.

Delegation of Powers.

9. (*1*) The Head of every office or Department shall publish the list of powers delegated to the subordinate officers, working under them, for taking final decision.

(*2*) The Head of every office or Department shall determine as far as possible three levels of submission for taking final decision on all matters pertaining to that office or Department.

(*3*) Lists of powers delegated to the subordinate officers and the levels of submission shall be prepared and published within one year from the date of commencement of this Act and shall be updated on the 1st April of every succeeding year.

Disciplinary action.

10. (*1*) Every Government servant shall be bound to discharge his official duties and the official work assigned or pertaining to him most deligently and as expeditiously as feasible :

Provided that, normally no file shall remain pending **with** any Government servant in the Department or office for more than seven working days :

Provided further that, immediate and urgent files shall be disposed of as per the urgency of the matter, as expeditiously as possible, and preferably the immediate file in one day or next day morning and the urgent file in four days :

Provided also that, in respect of the files not required to be referred to any other Department, the concerned Department shall take the decision and necessary action in the matter within forty-five days and in respect of files required to be referred to any other Department, decision and necessary action shall be taken within three months.

(*2*) Any wilful or intentional delay or negligence in the discharge of official duties or in carrying out the official work assigned or pertaining to such Government servant shall amount to dereliction of official duties and shall make such Government servant liable for appropriate disciplinary action under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such employee.

(*3*) The concerned competent authority on noticing or being brought to its notice any such dereliction of duties on the part of any Government servant, after satisfying itself about such dereliction on the part of such Government servant shall, take appropriate disciplinary action against such defaulting Government servant under the relevant disciplinary rules including taking entry relating to such dereliction of duty in the Annual Confidential Report of such Government servant.

11. Nothing in section 10 shall apply to,— Non-application of provisions of section 10 in certain circumstances.

(*i*) sub-judice matters ;

(*ii*) cases referred to Lokayukta or Upa-Lokayuktas and other Constitutional institutions, Commissions, etc. ;

(*iii*) quasi-judicial matters ;

(*iv*) cases related to Central or other State Governments ;

(*v*) cases related to Legislation ;

(*vi*) cases involving major policy decisions.

12. Within 12 months from the date of coming into effect of the Act, the Government will set up a mechanism for carrying out an administrative audit to see that the provisions under the Act are observed. Administrative Audit.

CHAPTER IV

MISCELLANEOUS

13. No suit, prosecution or other legal proceedings shall lie against any Government servant or officer for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made thereunder. Protection of action taken in good faith.

14. (*1*) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out the purposes of this Act. Power to make rules.

(*2*) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to remove difficulties.

15. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the *Official Gazette*, do anything, not inconsistent with the provisions of this Act :

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Repeal of Mah. Ord. IX of 2003 and saving.

16. (*1*) The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2003 is hereby repealed. Mah. Ord. IX of 2003.

(*2*) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under this Act.

शासकीय मध्यवर्ती मुद्रणालय, मुंबई.